

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2188**

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**Introduced by Assembly Member Grove**

February 18, 2016

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An act to ~~add Section 15030 to the Government Code, relating to human trafficking; amend Section 836 of the Penal Code, relating to crimes.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 2188, as amended, Grove. ~~Human trafficking database. Criminal procedure: arrests.~~

*Existing law authorizes a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has committed a public offense in the officer's presence or if the officer has probable cause to believe that the person has committed a felony.*

*This bill would authorize a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has committed the misdemeanor offense of soliciting a minor for prostitution.*

~~Existing law requires the Department of Justice to seek to control and eradicate organized crime by, among other things, gathering, analyzing, and storing intelligence related to organized crime and providing this intelligence to local, state, and federal law enforcement units. Existing law also requires, prior to a local law enforcement agency designating, or submitting a document to the Attorney General's office for the purpose of designating, a person as a gang member, associate, or affiliate~~

in a shared gang database, as defined, the local law enforcement agency to provide written notice to the person and his or her parent or guardian of the designation and the basis for the designation if the person is under 18 years of age, except as specified. Existing law authorizes the person or his or her parent or guardian to submit written documentation contesting that designation and requires the local law enforcement agency to provide written verification of its decision within 60 days.

This bill would require the department, on or before January 1, 2018, to expand its shared gang database, as defined in the provision described above, in order to provide accurate, timely, and electronically generated data of statewide human trafficking intelligence information. The bill would specify that the purpose of that expansion is to allow law enforcement agencies in California to collaborate in reducing the incidence of human trafficking. The bill would authorize the department to promulgate regulations to implement its provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 836 of the Penal Code is amended to*  
2     *read:*  
3     836. (a) A peace officer may arrest a person in obedience to  
4     a ~~warrant~~, warrant or, pursuant to the authority granted to him or  
5     her by Chapter 4.5 (commencing with Section 830) of Title 3 of  
6     Part 2, without a ~~warrant~~, may arrest a person *warrant* whenever  
7     any of the following circumstances occur:  
8     (1) The officer has probable cause to believe that the person to  
9     be arrested has committed a public offense in the officer's presence.  
10    (2) The person arrested has committed a felony, although not  
11    in the officer's presence.  
12    (3) The officer has probable cause to believe that the person to  
13    be arrested has committed a felony, whether or not a felony, in  
14    fact, has been committed.  
15    (b) Any time a peace officer is called out on a domestic violence  
16    call, it shall be mandatory that the officer make a good faith effort  
17    to inform the victim of his or her right to make a citizen's arrest,  
18    unless the peace officer makes an arrest for a violation of paragraph  
19    (1) of subdivision (e) of Section 243 or 273.5. This information  
20    shall include advising the victim how to safely execute the arrest.

1 (c) (1) When a peace officer is responding to a call alleging a  
2 violation of a domestic violence protective or restraining order  
3 issued under Section 527.6 of the Code of Civil Procedure, the  
4 Family Code, Section 136.2, 646.91, or paragraph (2) of  
5 subdivision (a) of Section 1203.097 of this code, Section 213.5 or  
6 15657.03 of the Welfare and Institutions Code, or of a domestic  
7 violence protective or restraining order issued by the court of  
8 another state, tribe, or territory and the peace officer has probable  
9 cause to believe that the person against whom the order is issued  
10 has notice of the order and has committed an act in violation of  
11 the order, the officer shall, consistent with subdivision (b) of  
12 Section 13701, make a lawful arrest of the person without a warrant  
13 and take that person into custody whether or not the violation  
14 occurred in the presence of the arresting officer. The officer shall,  
15 as soon as possible after the arrest, confirm with the appropriate  
16 authorities or the Domestic Violence Protection Order Registry  
17 maintained pursuant to Section 6380 of the Family Code that a  
18 true copy of the protective order has been registered, unless the  
19 victim provides the officer with a copy of the protective order.

20 (2) The person against whom a protective order has been issued  
21 shall be deemed to have notice of the order if the victim presents  
22 to the officer proof of service of the order, the officer confirms  
23 with the appropriate authorities that a true copy of the proof of  
24 service is on file, or the person against whom the protective order  
25 was issued was present at the protective order hearing or was  
26 informed by a peace officer of the contents of the protective order.

27 (3) In situations where mutual protective orders have been issued  
28 under Division 10 (commencing with Section 6200) of the Family  
29 Code, liability for arrest under this subdivision applies only to  
30 those persons who are reasonably believed to have been the  
31 dominant aggressor. In those situations, prior to making an arrest  
32 under this subdivision, the peace officer shall make reasonable  
33 efforts to identify, and may arrest, the dominant aggressor involved  
34 in the incident. The dominant aggressor is the person determined  
35 to be the most significant, rather than the first, aggressor. In  
36 identifying the dominant aggressor, an officer shall consider (A)  
37 the intent of the law to protect victims of domestic violence from  
38 continuing abuse, (B) the threats creating fear of physical injury,  
39 (C) the history of domestic violence between the persons involved,  
40 and (D) whether either person involved acted in self-defense.

(d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiancé, fiancée, a current or former cohabitant as defined in Section 6209 of the Family Code, a person with whom the suspect currently is having or has previously had an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, any other person related to the suspect by consanguinity or affinity within the second degree, or any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship, a peace officer may arrest the suspect without a warrant ~~where~~ *when* both of the following circumstances apply:

(1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section 25400 when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of Section 25400.

(2) The violation of Section 25400 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 25400.

*(f) In addition to the authority to make an arrest without a warrant pursuant to subdivision (a), a peace officer may arrest a person without a warrant if the officer has probable cause to believe that the person to be arrested has violated subdivision (m)*

1 *of Section 647, even if that violation was not in the presence of the*  
2 *officer.*

3 ~~SECTION 1. Section 15030 is added to the Government Code,~~  
4 ~~to read:~~

5 ~~15030. (a) On or before January 1, 2018, the Department of~~  
6 ~~Justice shall expand its shared gang database, as defined in Section~~  
7 ~~186.34 of the Penal Code, in order to provide accurate, timely, and~~  
8 ~~electronically generated data of statewide human trafficking~~  
9 ~~intelligence information. The purpose of this expansion shall be~~  
10 ~~to allow law enforcement agencies in California to collaborate in~~  
11 ~~reducing the incidence of human trafficking.~~

12 ~~(b) The department may promulgate regulations to implement~~  
13 ~~this section.~~

14 ~~(c) For purposes of this section, “human trafficking” has the~~  
15 ~~same meaning as defined in Section 236.1 of the Penal Code.~~